

(a) The consultation shall be by written memorandum to the DOI representative and shall contain the following:

(1) Identification of the unit within the CBRS;

(2) Description of the facility and the proposed repair or replacement work; including identification of the facility as an exception under section 6 of CBRA; and full justification of its status as an exception;

(3) Amount of proposal Federal funding;

(4) Additional mitigation measures required; and

(5) A determination of the action's consistency with the purposes of CBRA, if required by these regulations, in accordance with § 206.349.

(b) Pursuant to FEMA understanding with DOI, the DOI representative will provide technical information and an opinion whether or not the proposed action meets the criteria for a CBRA exception, and on the consistency of the action with the purposes of CBRA (when such consistency is required). DOI is expected to respond within 12 working days from the date of the FEMA request for consultation. If a response is not received within the time limit, the FEMA Regional Director shall contact the DOI representative to determine if the request for consultation was received in a timely manner. If it was not, an appropriate extension for response will be given. Otherwise, he or she may assume DOI concurrence and proceed with approval of the proposed action.

(c) For those cases in which the regional DOI representative believes that the proposed action should not be taken and the matter cannot be resolved at the regional level, the FEMA Regional Director will submit the issue to the FEMA Assistant Associate Director for Disaster Assistance Programs (DAP). In coordination with the Office of General Counsel (OGC), consultation will be accomplished at the FEMA National Office with the DOI consultation officer. After this consultation, the Assistant Associate Director, DAP, determines whether or not to approve the proposed action.

§ 206.349 Consistency determinations.

Section 6(a)(6) of CBRA requires that certain actions be consistent with the purposes of that statute if the actions are to be carried out on a unit of the CBRA. The purpose of CBRA, as stated in section 2(b) of that statute, is to minimize the loss of human life, wasteful expenditure of Federal revenues, and the damage to fish, wildlife, and other natural resources associated with the coastal barriers along with Atlantic and Gulf coasts. For those actions where a consistency determination is required, the FEMA Regional Director shall evaluate the action according to the following procedures, and the evaluation shall be included in the written request for consultation with DOI.

(a) *Impact identification.* FEMA shall identify impacts of the following types that would result from the proposed action:

(1) Risks to human life;

(2) Risks of damage to the facility being repaired or replaced;

(3) Risks of damage to other facilities;

(4) Risks of damage to fish, wildlife, and other natural resources;

(5) Condition of existing development served by the facility and the degree to which its redevelopment would be encouraged; and

(6) Encouragement of new development.

(b) *Mitigation.* FEMA shall modify actions by means of practicable mitigation measures to minimize adverse effects of the types listed in paragraph (a) of this section.

(c) *Conservation.* FEMA shall identify practicable measures that can be incorporated into the proposed action and will conserve natural and wildlife resources.

(d) *Finding.* For those actions required to be consistent with the purposes of CBRA, the above evaluation must result in a finding of consistency with CBRA by the Regional Director before funding may be approved for that action.